Petitioner was in custody, in another jurisdiction, when the erroneous bench warrant was issued that caused the Virginia extradition warrant to be issued.

Be in remembered that Petitioner was never convicted of a crime in Maryland. Therefore, could not have been on parole or probation.

Before being extradited to Maryland on August 8th, 2004, Petitioner spent nine (9) days in solitary confinement in the triple bunked Culpeper County Virginia Jail.

Upon arriving in Maryland, Petitioner was never afforded any type of hearing concerning that aforementioned bench warrant and spent Ten (10) days raising bail for that mistaken warrant.

As of this writing, that bond is still in place.

During Pro Se Petitioner's incarceration at the Worcester County Detention Center, he was denied access to his legal files and was unable to comply with Maryland Rule 4.213(g) 3 in an effort to request a Preliminary Hearing in case number 24-K-0000819.

Within twenty-four hours of Petitioner's release, a request for Preliminary Hearing was filed on August 19, 2004.

The request was denied by the Worcester County District Court.

On November 1st, 2004, Petitioner filed a Motion to Dismiss along with a Memorandum In Support of Violation of Petitioner's Speedy Trial and numerous other Constitutional Rights in Case Number 23-K-000090, the Honorable Thomas Groton presiding.

On December 7th, 2004, the Circuit Court denied Petitioner's Motion to Dismiss. (App 7)

On January 5th, 2005, Petitioner appealed that dismissal to the Court of Special Appeals. (App 6).

On January 12th, 2005, Petitioner ordered the transcript of the proceeding.

On February 2nd, 2005, The Court of Special Appeals on its own motion, without factual finding, dismissed Petitioner's appeal. Citing Stewart v. State, the Court issued its mandate on March 17th, 2005. Irvin Hannis Catlett, Jr. vs. State of Maryland, September Term 2004, No. 02491. (App 5)

On April 1st, 2005, Petitioner filed a petition for Writ of Certiorari to Maryland Court of Appeals. That Petition was denied on June 10th, 2005, (Exhibit seven) and pursuant to Maryland Rule

8-605 (a) Petitioner filed Motion for Reconsideration. (App 4)

On August 12th, 2005, the Maryland Court of Appeals denied Petition for Reconsideration. (App 3)

The Petitioner now brings this matter to this court.

Petitioner seeks review of the Denial of the State Court Judgment denying Petitioners Motion to Dismiss and the subsequent denial of the Appeal to the Maryland Court of Special Appeals dismissing the appeal without factual findings in this case but allowing a companion case to go forward with less Constitutional violations.

The Federal questions were timely raised in the Circuit Court and for same Petitioner respectfully requests that those Federal questions be reviewed.

ARGUMENT FOR ALLOWANCE OF WRIT

The Standard of Review to dismiss the changes against the Petitioner for violations of his speedy trial lie in Barker v. Wingo 407 US 514.

Quoting Epps v. State 276 Md. 96 at 104. "In 1972, the Supreme Court, in Barker v. Wingo, 407 US 514 pointed out that the right to a speedy trial is generically different from any of the other rights enshrined in the Constitution for the protection of the accused and that in addition to the general concern that all accused persons be treated according to decent and fair procedures there is a societal interest in providing a speedy trial which exists separate from and at the times in opposition to the interest of the accused. It is postulated that the right to a speedy trial cannot be established by any inflexible rule, the denial of the right must be determined on an ad hoc basis balancing both the conduct or the prosecution and that of the Defendant. In enunciation such a balance test the Court identified four factors as criteria in determining through a functional analysis whether or not a particular Defendant has been denied this Sixth Amendment right."

The balancing test is based on four factors:

(a) Length of delay.

(b) Reason for the delay.

(c) Petitioner's assertion of his right.

(d) Prejudice to the Petitioner.

(e) Length of delay.

For the purpose of a speedy trial consideration of any delay in bringing the Petitioner from the date on which he was arrested. There were two arrest dates; December 20th, 2002 in Case Number 23-K-04-000090 and March 31st, 2003 in Case Number 24-K-04-0000819.

The Petitioner remained in Maryland custody until May 20, 2003, when Petitioner was prematurely extradited to Virginia, Fifty days after his arrest and four days after his IAD filing.

On May 20, 2004, the Petitioner was extradited to Arlington County, Virginia, and was again served with a warrant and again asked for a speedy disposition of same.

On June 12, 2003 Petitioner was transferred to Peumansend Creek Regional Jail in Bowing Green, Virginia.

Petitioner remained at Peumansend Creek for a period exceeding 228 days and was brought to trial on August 9, 2004, more than one year and four months of his March 31, 2003 arrest and 328 days on his being brought to trial on his December 20th, 2002 arrest.

Quoting Epps' at 111, "a period of one year and fourteen days between the commencement of prosecution made the date which the Petitioner was tried was "not frivolous" and it appears to us that the duration of such interval was sufficiently inordinate to constitute a "triggering mechanism" to engage in the sensitive protracted to be presumptively prejudicial."

(b) Reason For Delay

In Wilson v. State 281 Md 640 Judge Orth stated "that a Defendant has no duty to bring himself to trial; the State has that duty"... In Barker v. Wingo Id. At 642 "says it follows therefore, that the State may not excuse delay in bringing an accused to trial merely because he is incarcerated for other offenses in this or other jurisdictions. State v. Dean 142 Md App 155 at 162 states "it would seem therefore that an accused incarcerated in another State is not required to invoke the provisions of the Interstate

Detainer Act as a condition precedent to prosecuting claim to a denial of his speedy trial rights guaranteed by the Sixth Amendment to the Constitution of the United States."

In a 1973 Maryland Court of Appeals Decision Case Number 453 September Term 1973, decided February 19, 1974 a convicted murderer Roland Douglas Barnes was convicted of murder but due to the Speedy Trial Violation, his judgment was reversed and his case was remanded for Dismissal of Indictment with Prejudice.

On May 20, 2003 Petitioner was extradited to Virginia prior to exhaustion of State and Federal remedies and prior to trying Petitioner on the instant charges.

The March 31, 2003 detainer was an abuse of power by the State Police and State's Attorney and was a "piling on" to gain advantage in both cases investigated by the same State Police team.

Again the passing of time is very prejudicial to the case and the arts of commission and/or omission of the State's Attorney violated Petitioner's right to a speedy trial.

(c) Petitioner's Assertion of Right

The Petitioner, unaware of the events of his Trial in Absence in February and April in Case no. 23K-03-000090, but certainly aware of his outstanding Court proceeding, when served with a detainer on another matter on March 31, 2003, ask the authorities at the Montgomery County Jail for a quick deposition of all matters.

The Petitioner developed his own IAD package and sent same to the Warden on May 16, 2003. On May 20, 2003, Petitioner was extradited to Virginia.

On the same day Petitioner ask Arlington County Jail Officials for a speedy disposition of the Maryland charges upon arriving in Virginia.

Twenty days later Petitioner was transferred to Peumansend Creek Regional Jail in Bowling Green Virginia. At no time was the Petitioner served with any notices or detainers and seven months later, after being sent to Powhatan Reception Center, the Maryland State's Attorney filed a detainer for the same faulty Failure to Appear warrant.

Therefore, as to assertion of right, the foregoing speaks for itself.

(c) Prejudice To The Petitioner

Epp's quoting Moore v. Arizona, Supra "an affirmation demonstration of prejudice is not necessary to prove a denial of the Constitutional right to a "Speedy Trial" 415 US at 26, there stating in a per curium opinion:

Moreover, prejudice to a defendant caused by delay in bringing him to trial is not confined to the possible prejudice to his defense in those proceedings. Inordinate delay, "wholly aside from possible prejudice to a defense on the merits, may seriously interfere with the defendant's liberty, whether he is free on bail or not, and may disrupt his employment, drain his financial resources, curtail his association, subject him to public obloquy, and create anxiety in him, his family and his friends." United States v. Marion, 404 U.S. 307, 320 (1971), [footnotes omitted].

These factors are more serious for some than for others, but they are inevitable present in every case to some extent, for every defendant will either be incarcerated pending trial or on bail subject to substantial restriction on his liberty.'

Barker v. Wingo, supra at 537 (White, J., concurring)." 415 US.S AT 26-27.

Although prejudice may be presumed from the inordinate length of the delay itself, Baker v. Wingo, supra, at 530; Strunk v. United supra , at 439, we think upon the facts enumerated by Mr. Justice White in his concurring opinion in Barker v. Wingo, supra, which cause "anxiety and concern', the Petitioner Epps sustained actual prejudice.

In State v. Dean 42 Md App 1551 at 165, "Prejudice...should be assessed in the light of the interests of defendants which the speedy trial was designed too protect. [This Court] has identified three such interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimum anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired." Barker v. Wingo, supra at 532.

The Petitioner spent at least nine days in the Worcester County Detention Center raising the oppressive bail. During that time Pro Se Defendant was denied access to his legal documents and any legal material within the confines of the jail inhibiting his right to a Preliminary Hearing causing great anxiety and interrupted his integration back into society; and,

impairing the preparation of his defense by loss of witnesses and evidence necessary to defend this action.

The Petitioners "Speedy Trial" Motion to Dismiss argued Fifth Amendment violations, Double Jeopardy, failure to try Petitioner while in custody and extradited Petitioner after that failure, Eighth Amendment (wrongful and excessive bail) and erroneous detainer impacting Petitioners Virginia Incarceration and Parole.

On October 1st, 2004, Fairfax County Virginia Circuit Court Judge Keith dismissed a capital murder case against sniper John Allen Muhammad due to Virginia violating Muhammad's right to a speedy trial. See Funk v. Commonwealth of Virginia, Court of Appeals of Virginia decided July 6th, 1993.

Seventeen months earlier the Petitioner was extradited to Virginia from Maryland in clear violation of his rights under the Interstate Agreement on Detainers.

The Fourteenth Amendment guarantees equal protection under the law.

That amendment provides for equal protection for all people.

The State of Maryland and its Appellant Judiciary have failed to comply with that amendment by failing to provide uniform,

consistent and equal treatment within the two cases of the Petitioner that are now being appealed.

On January 5th, 2005, Petitioner noted two appeals to the Maryland Special Court of Appeals Case Number 2491 September Term, Appealing a Motion to Dismiss from the Circuit Court for Worcester County Maryland Case Number 23-K-03-000090 and Number 2883 September Term appealing a Motion to Dismiss from the Circuit Court of Worcester County Maryland Case Number 24-K-04-0000819.

On December 7th, 2004, Petitioner argued that Motion to Dismiss in both cases simultaneously, the cases were dismissed simultaneously, noting appeals to the Special Court of Appeals were filed simultaneously and transcripts were sent simultaneously.

Case Number 2491 (this instant case) was dismissed without factual finding. It's important to note that Case Number 2491 exudes greater culpability for many more constitutional violations.

Making note of the foregoing, Case Number 2883 has been going forward with Brief and Reply Briefs being filed with argument set for October 3-17, 2005.

This Court in criminal cases has twice departed from the General Prohibition Against Piecemeal Appeal Review; Abney vs. United States, Supra; Stack vs. Boyle 342, U S 1, 72 S CT, 96 L.F.D. 3 (1951). In each instance, the Court, relied on the Final Judgment Rule's "Collateral Order" Exception articulated in Cohen vs. Beneficial Industrial Loan Corporation 327 US 541, 545-547, 69 S CT 1221 1225-1226, 93 LED 1528 (1949).

In Abney vs. US Supra and Stack vs. Boyce, The Supreme Court relied on the Final Judgment Rule's Collateral Order Exception articulated in Cohen vs. Beneficial Industrial Loan Corporation 327 US 541, 545-547, 69 S CT 1221 1225-1226, 93 LED 1528 (1949). The Petitioners "Speedy Trial" Motion to Dismiss argued Foundation Amendment violations, Fifth Amendment violations, (Double Jeopardy), Abney at ID at 2034 states that "A Denial of a Motion to Dismiss on Double Jeopardy grounds lacks the finality traditionally considered indispensable to Petitioner's review, such an order falls within the small class of cases that "Cohen" has placed beyond the confines of the Final Judgment Rule, and such an order thus constitutes a "Final Decision" which is immediately appeal able, since it constitutes a complete formal and in the

trial court final rejection of an accused's Double Jeopardy claim, the very nature of which is such that it is collateral to and separable from the principle issue of guilt and since the rights conferred by the Double Jeopardy clause would be significantly undermined if Petitioners review of such claims were postponed until after conviction and sentence, 28 USCA 1291 USCA Constitutional Amendment 5.

In Abney v. US Supra and Stack v. Boyce, The Supreme Court relied on the Final Judgment Rule's Collateral Order Exception articulated in Cohen v. Beneficial Industrial Loan Corp 327 US 541, 545-547 69 S CT 1221, 1225-1226, 93 led 1528 (1949). The Petitioners "Speedy Trial" Motion to Dismiss argued Foundation Amendment violations, Fifth Amendment violations, (Double Jeopardy), Abney at ID at 2034 states that "A Denial of a Motion to Dismiss on Double Jeopardy grounds lacks the finality traditionally considered indispensable to Petitioner's review, such an order falls within the small class of cases that "Cohen" has placed beyond the confines of the Final Judgment Rule, and such an order thus constitutes a "Final Decision" which is immediately appeal able, since it constitutes a complete formal and in the trial court final rejection of an accused's Double

Jeopardy claim, the very nature of which is such that it is collateral to and separable from the principle issue of guilt and since the rights conferred by the Double Jeopardy clause would be significantly undermined if Petitioners review of such claims were postponed until after conviction and sentence, 28 USCA 1291 USCA Constitutional Amendment 5.

Petitioner has argued throughout his Motions to Dismiss beginning with his January 5th, 2003, Motion to Dismiss, that was incorporated in his December 7th, 2004 Motion to Dismiss, that the State violated his Fifth Amendment right via multiplicity and duplicity of charges in this case.

Additionally, failure to try Petitioner while in custody, instead of extraditing Petitioner, was another Fifth Amendment violation.

Failure to try Petitioner while in custody and extraditing Petitioner after that failure, caused Eighth Amendment violations (wrongful and excessive bail) the erroneous detainer impacted Petitioners Virginia Incarceration and Parole.

When Maryland extradited Petitioner to Virginia, Virginia law became overriding and triggered the protection afforded by the Fourteenth Amendment.

If a convicted murderer's charges are dismissed and he is discharged from prosecution, the equal

protection of the Fourteenth Amendment demands that the Petitioner, then incarcerated in Virginia, should be afforded the same finding.

CONCLUSION

The Judge's denial of Petitioners Motion to Dismiss was clearly erroneous, although the thrust of the Motion was slated to the "Speedy Trial" violations the underlying theme of the Motion was the Fifth, Sixth and Eighth Amendments and the guarantees afforded under the Fourteenth Amendment.

The Judge should have disqualified himself from this action, as the nexus of the Speedy Trial violation stemmed from an erroneous bench warrant issued by the Judge in this case.

The Petitioner was in custody in Montgomery County, Maryland when the detainer for the companion case was lodged (23-K-04-0000819). The Petitioner had been arraigned in Worcester County in January of 2003 from which the erroneous bench warrant arose and the foundation of the Constitutional may lays.

Despite the IAD demand, the Petitioner was extradited to Virginia.

The December 7th, 2004, Motion to Dismiss although titled a "Speedy Trial" Motion, was in effect arguing the Final Judgment Rules Collateral Order Exception articulated in Cohen and held in Abney and Stack making this matter

ripe for appeal. The elimination of the preliminary hearing and faulty discovery was a final adjudication.

The Double Jeopardy created the Circuit Courts failure to dismiss the multiple and duplicitous charges, and by failure of the trial court to try, the Petitioner on the companion case and this case, before Petitioner was extradited was a final adjudication.

The erroneous bench warrant and faulty detainer throughout the Petitioners Virginia incarceration increased Petitioners time served and length of his mandatory parole, and his re-entry into Maryland caused numerous Eighth Amendment Violations, were final adjudication.

Those violations were certainly collateral in nature, and are certainly immediately appeal able, and the Maryland Special Court of Appeals and the Maryland Court of Appeal erred by failing to reverse the court below.

Therefore in the light most favorable to the State, Petitioners Motion to Dismiss is ripe for adjudication based on the Final Judgment Rule's Collateral Exception and for same and for the aforementioned constitutional violations.

That for those reasons, the Petitioner respectfully requests that this court revisit this matter and grant Petition for Writ of Certiorari.

Respectfully Submitted

Irvin
Hannis Catlett, Jr.
P.O. Box 128
Kensington, MD 20895
410-977-6647
Pro Se

No.

In The

Supreme Court of the United States

IRVIN HANNIS CATLETT, JR.,
Petitioner,

v.

STATE OF MARYLAND
Respondent.

Petition for Writ of Certiorari
To The Court of Appeals
Of Maryland

PETITION FOR WRIT OF CERTIORARI
APPENDIX

Irvin Hannis Catlett, Jr.
P.O. Box 128
Kensington, MD 20895
(410) 977-6647
Pro Se

TABLE OF CONTENTS

PAGE

APP 1 Order denying Petitioner Motion For Reconsideration in Maryland Court of Appeals.....1

APP 2 Petitioner's Motion for Reconsideration and Attachments....2

APP 3 Order dismissing Petitioners Writ of Certiorari, Maryland Court of Appeals.....29

APP 4 Petitioner's Writ of Certiorari to the Maryland Court of Appeals.....30

APP 5 Dismissal of Petitioner's Appeal in The Maryland Court of Special Appeals.....42

APP 6 Petitioner's notice of Appeal to the Court of Special Appeals.....44

APP 7 Worcester County Circuit Court Docket Entries denying Petitioners Motion to Dismiss.....46

APP 8 Petitioner's Motion to Dismiss in Worcester County Circuit Court.....48

IRVIN HANNIS CATLETT. * IN THE
* COURT OF APPEALS
* OF MARYLAND

v.

* Petition Docket No.56

* Sept Term, 2005

STATE OF MARYLAND *(No. 2491, Sept. Term, 2004, Court of Special Appeals)

ORDER

The Court having considered the motion for reconsideration filed in the above entitled case it is

ORDERED, by the Court of Appeals of Maryland that the motion be, and it is hereby, denied.

/s/ Robert M. Bell
Chief Judge

DATE: August 12, 2005

IRVIN HANNIS CATLETT, JR.	* IN THE * COURT OF APPEALS * OF MARYLAND
v.	* Petition Docket No.56 * September Term, 2005
STATE OF MARYLAND	*(No. 2491, Sept. Term, 2004, Court of Special Appeals)

****

MOTION FOR RECONSIDERATION

By charging documents filed in the Circuit Court of Worcester County, Maryland, the State charged Petitioner Irvin Hannis Catlett, Jr. with seventeen counts pursuant to 27.141, uttering bad checks exceeding Five Hundred Dollars returned by Petitioner's Bank for insufficient funds and seventeen counts pursuant to 27.141(b) for passing those insufficient funds checks.

On November 1st, 2004, petitioner filed a Motion to Dismiss along with a Memorandum In Support of violation of Petitioner's Speedy Trial and numerous other Constitutional Rights in Case

No. 23-K-03-000090, the Honorable Thomas Groton presiding.

On December 7th, 2004, the Circuit Court denied Petitioner's motion.

On January 5th, 2005, Petitioner appealed that dismissal to the Court of Special Appeals.

On January 12th, 2005, Petitioner ordered the transcript of the proceeding.

On February 2nd, 2005, the Court of Special Appeals on its own motion, without factual finding, dismissed Petitioner's appeal. Citing Stewart v. State, the Court issued its mandate on March 17th, 2005. Irvin Hannis Catlett, Jr. vs. State of Maryland, September Term 2004, No. 02491. Pursuant to Maryland Rule 8-303 Petitioner, in proper person, petitions this Court to issue a Writ of Certiorari to the Court of Special Appeals to review that Court's decision.

On April 1st, 2005, Petitioner filed a petition for a Writ of Certiorari to this Court, that petition was denied on June 10th, 2005, and for same, pursuant to Rule 8-605(a) Petitioner filed this Motion for Reconsideration.

ARGUMENT AND AUTHORITIES

The Fourteenth Amendment guarantees equal protection under the law.

That amendment provides for equal protection for all people

The State of Maryland and its Appellant Judiciary have failed to comply with that amendment by failing to provide uniform, consistent and equal treatment within the two cases of the Petitioner that are now being appealed.

On January 5th, 2005, Petitioner noted two appeals to the Maryland Special Court of Appeals Number 2491 September Term, Appealing a Motion to Dismiss from the Circuit Court for Worcester County Maryland Case No. 23-K-03-000090 and Number 2883 September Term, appealing a Motion to Dismiss from the Circuit Court of Worcester County Maryland Case No. 24-K-04.000819.

On December 7th, 2004, Petitioner argued that Motion to Dismiss in both cases simultaneously, the cases were dismissed simultaneously, noting appeals to the Special Court of Appeals were filed simultaneously and transcripts were sent simultaneously.

Case No. 2491 (this instant case) was dismissed without factual finding. It's important to note that Case No. 2491 exudes greater culpability for many more constitutional violations.

Making note of the foregoing, Case No. 2883 has been going forward with Brief and Reply Briefs being filed with argument set for October 3-17, 2005. (See Exhibit One)

"The (Supreme) Court in criminal cases has twice departed from the General Prohibition Against Piecemeal Appeal Review: Abney vs. United States, Supra; Stack vs. Boyle 342, U S 1, 72 S CT, 96 L.F.D. 3 (1951). In each instance, the Court, relied on the Final Judgment Rule's "Collateral Order" Exception articulated in Cohen vs. Beneficial Industrial Loan Corporation 327 US 541, 545-547, 69 S CT 1221 1225 – 1226, 93 LED 1528 (1949)

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Amendment (denial of preliminary hearing), Fifth Amendment violations, (Double Jeopardy), Abney at ID at 2034 states that "A Denial of a Motion to Dismiss on Double Jeopardy grounds lacks the finality traditionally considered indispensable to Petitioner's review, such an order falls within the small class of cases that "Cohen" has placed beyond the confines of the Final Judgment Rule, and such an order thus constitutes a "Final Decision" which is immediately appeal able, since it constitutes a complete formal and in the trial court final rejection of an accused's Double Jeopardy claim, the very nature of which is such that it is collateral to and separable from the principle issue of guilt and since the rights conferred by the Double Jeopardy clause would be significantly undermined if Petitioners review of such claims were postponed until after conviction and sentence, 28 USCA 1291 USCA Constitutional Amendment 5.

Petitioner has argued throughout his Motions to Dismiss beginning with his January 5th, 2003 Motion to Dismiss, that was incorporated in his December 7th, 2004 Motion to Dismiss, that the State violated his Fifth Amendment via

multiplicity and duplicity of charges in this case.

This court must read the transcripts filed in the underlying case to fully see those Fifth Amendment violations.

Additionally, failure to try Petitioner while in custody, instead extraditing Petitioner, was another Fifth Amendment violation.

Failure to try Petitioner while in custody and extraditing Petitioner after that failure, caused Eighth Amendment violations (wrongful and excessive bail) the erroneous detainer impacted Petitioners Virginia Incarceration and Parole.

The Petitioner spent nine (9) days in the Worcester County Detention Center raising the oppressive bail. During that time Pro Se Defendant was denied access to his legal documents and any legal material within the confines of the jail inhibiting his right to a Preliminary Hearing causes great anxiety and interrupted his integration back into society; and, impairing the preparation of his defense by loss of witnesses and evidence necessary to defend this action.

On October 1st, 2004, Fairfax County, Virginia Circuit Court Judge Keith dismissed a capital murder case against sniper John Allen Muhammad due to Virginia violating

Muhammad's right to a speedy trial. See Funk v. Commonwealth of Virginia, Court of Appeals of Virginia decided July 6th, 1993.

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When Maryland extradited Petitioner to Virginia, Virginia law became overriding and triggered the protection afforded by the Fourteenth Amendment.

If a convicted murderer's charges are dismissed and he is discharged from prosecution, then equal protection of the Fourteenth Amendment demands that the Petitioner, then incarcerated in Virginia, should be afforded that same finding.

CONCLUSION

The Judge's denial of Petitioners Motion to Dismiss was clearly erroneous, although the thrust of the Motion was slated to the "Speedy Trial" violations the underlying theme of the Motion was the Fourth, Fifth, Sixth and Eighth Amendments and the guarantees afforded under the Fourteenth Amendment.

The Judge should have disqualified himself from this action, as the nexus of the Speedy Trial violation stemmed from an erroneous bench warrant issued by the Judge in this case.

The Petitioner was in custody in Montgomery County, Maryland when the detainer for the companion case was lodged. The Petitioner had been arraigned in Worcester County in January of 2003 from which the erroneous bench warrant arose and the foundation of the Constitutional may lays.

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The Double Jeopardy created the Circuit Courts failure to dismiss the multiple and duplicitous charges, and by failure of the trial court to try, the Petitioner on the companion case and this case, before Petitioner was extradited was a final adjudication. The erroneous bench warrant and faulty detainer throughout the Petitioners Virginia incarceration increased Petitioners time served and length of his mandatory parole, and his re-entry into Maryland caused numerous Eighth Amendment Violations, were final adjudication.

Those violations were certainly collateral in nature, and are certainly immediately appeal able.

Therefore in the light most favorable to the State, Petitioners Motion to Dismiss is ripe for adjudication based on the Final Judgment Rule's Collateral Exception and for same and for the aforementioned constitutional violations.

The Petitioner respectfully requests that this court revisit this matter and grant this Motion for Reconsideration and upon that granting, a grant Petitioner Petition for Writ of Certiorari.

Respectfully Submitted

/S/ Irvin Hannis Catlett
Irvin Hannis Catlett, Jr.
4521 Dresden Street
Kensington, MD 20895
301-564-6422

IRVIN HANNIS CATLETT, JR.*	IN THE
Petitioner	* COURT OF SPECIAL APPEALS
v.	* OF MARYLAND
STATE OF MARYLAND,	* September Term, 2005 Petition No. 56
Respondent	* No. 2491 September Term Court of Special Appeals

****

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of June 2005, three (3) copies of Petitioners Motion for Reconsideration were mailed, postage paid to Celia Anderson Davis, Assistant Attorney General, "200" Saint Paul Place, Baltimore, Maryland, 21202.

/S/ Irvin Hannis Catlett

Irvin Hannis Catlett, Jr. – Petitioner
4521 Dresden Street
Kensington, Maryland 20895
301-564-6422

Court of Special Appeals
Robert C. Murphy Courts of Appeal Building
Annapolis, Md. 21401-1699

Leslie D. Gradet
Clerk

Robert J. Greenleaf
Chief Deputy

(410) 260-1450
Washington Area 1-888-200-7444

No. 02883, September Term, 2004

Irvin Hannis Catlett, Jr.
vs.
State of Maryland

The record in the captioned appeal was received and docketed on 03/08/2005.

The brief of the APPELLANT is to be filed with the office of the Clerk on or before 04/27/2005. (Rule 8-502(a)(1)).

The brief of the APPELLEE is to be filed with the office of the Clerk on or before 30 days after filing of appellant's brief (Rule 8-502(a)(2)).

This appeal has been set for argument before this Court one of the following days;
October 03, 06, 07, 11, 12, 13, 14, 17, 2005.

IF, DUE TO A CURRENTLY SHCEDULED COURT APPEARANCE OR OTHER EXTRAORDINARY CAUSE, YOU WILL BE UNABLE TO APPEAR ON ONE OR MORE OF THESE DATES, YOU MUST INFORM THE CLERK WITHIN TEN DAYS AFTER THE DATE OF THIS NOTICE, OTHERWISE, THE DATE SELECTED FOR ARGUMENT WILL NOT BE CHANGED.

Stipulations for extensions of time within which to file briefs will only be accepted if the appellee's brief will be filed at least 30 days, and any reply brief, at least 10 days, before the scheduled argument or submission on brief (Rule 8-502(b)).

NOTICE: Law firm name and address must be printed on brief and record extract.

WORCESTER COUNTY
CIRCUIT COURT DOCKET ENTRY

23-K-03-000090 Date: 03/24/05 Time: 16:02

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling
0005000	Criminal Open Court Proceedings	02/19/03	02/20/03		
000	TCG				

Judge Thomas C. Groton, III on the bench.
David R. Dawson
Reporting. Kathleen E. Smith, Esq. Present for the State.
Defendant not present after having been called at the door and
failing to appear. Court Orders the personal recognizance be revoked and a bench warrant be issued. Set bond at thirty five thousand dollars ($35,000.00)

DATE: 2/04/05 CLERK-ID: __
OBSCIS DATA BASE INQUIRY BY
SEGMENT – I/P: KEY I NR 206846 SEGM
DETR
LNA: CATLETT FNA: IRVIN
MID: HANNIS TIL: JR
ATI:

SEGMENT
DETAILED
INFORMATIONSEGMENT DATA
DESCRIPTION

Date of Detainer & Suffix	02 20 2003 0	
Issuing Jurisdiction	O	Out-of-State
Detainer Type Code	W	Wanted
Detainer Status Code	A	Inmate Notified
Date Detainer was rec'd by DOC	02 03 2004	
Most serious charge(s)	5015	Failure to Appear
Issuing Agency Info:		
Reference Number		23K030090
Contact Person's Name		Warrant Division
Agency Name		Worcester County S.D.
Street or PO Box Address		1 West Market Street
City, State and Zip Code		Snow Hill, MD 21863
Phone Number		410- 632-1112
Last change date for this record		02 04 2004

DEPARTMENT OF CORRECTION AND REHABILITIATION

Douglas M. Duncan
County Executive

Arthur M. Wallenstein
Director

Date: 7/29/03
Re: Irvin H. Catlett
MCDOC #: 0208148

To Whom It May Concern:

In response to your inquiry of 7/29/03, please be advised that the above named individual was incarcerated at the Montgomery County Department of Corrections and Rehabilitation. The dates of incarceration for the time period requested are as follows:
From: 11/27/02002 To: 5/20/2003
If you need any further assistance regarding this matter, please feel free to contact the Records Section of the Montgomery County Department of Corrections and Rehabilitation.

Sincerely,

/S/ Carl C. Furr

Carl C. Furr
Records Manager
Montgomery County
Department of
Correction and Rehabilitation

STATE OF MARYLAND
MARYLAND STATE POLICE

(410 641-3101)
Barrack "V" Eastern Region
9758 Ocean Gateway
Berlin, Maryland 21811
March 31, 2003
Montgomery County Detention Center
Attn:. Detainer Records
1307 Seven Locks Road
Rockville, MD 21054
Fax No. 240-777-9740

Please file a detainer against the subject named below, who is now confined to your institution, and notify this office prior to his release, in order that we may re-arrest him on a complaint.

NAME: CATLETT, Irvin Hannis, Jr.
DOB: 01/10/47
OUR FILE NUMBER: Bk "V" 3-7984
WANTED BY: Maryland State Police
Bk. "V" Berlin
OUT TELEPHONE NUMBER: (410) 641-3101 CHARGE(S): Arrest Warrant – Theft - $300 Plus
(District Court Case No. 001100032768)

We hold a warrant issued by the Court in the above mentioned jurisdiction, a photocopy of which is attached and would appreciate your cooperation.

Sincerely,

_____/S/ Douglas A. Dods_____
Douglas A. Dods Lieutenant
Commanding – Bk
"V", Berlin

Cc: State's Attorney for Worcester
County Criminal Investigation Division
{ } State's Attorney Will Extradite

To: William Smith, Warden

From: Irvin Hannis Catlett, Jr. 0208148

Date: May 16th, 2003

Re: I.A.D.

Request for Certificate of Inmate Status

Pursuant to the Interstate/Intrastate agreement of Detainer Act, Section One, Article III and 18 USCA, Please complete in triplicate and attach one each of Certificate of Inmate Status to my completed request for disposition on Intra/Inter State Detainers, and forward to: Maryland State's Attorney
Worcester County
Snow Hill, MD 21863
Chief Judge of the District Court
For Worcester Count
Snow Hill, MD 21863
Return to writer for mailing. Failure to immediately comply with foregoing may result in civil or criminal violation of federal law. Govern yourself accordingly.

3/16/03

/S/ Irvin Hannis Catlett, Jr.
Irvin Hannis Catlett, Jr.
NCCF # 02 08148
22880 Whelan Lane
Boyds, MD 20841

Inmates Copy

Chief Judge of Worcester
County District Court

Filed 04 NOV 23 AM 9:28

REQUEST FOR DISPOSITION ON INTRA/INTER STATE DETAINERS

To: Joel J. Todd STATE'S ATTORNEY, Worcester County, Maryland District Court, Worcester County, Maryland

And to all other prosecuting officers and courts of jurisdiction listed below from which indictments, warrants, information, or complaints are pending.

You are hereby notified that the undersigned is now imprisoned in:

Montgomery County Correctional Facility at Boyds, Maryland

And I hereby request that a final disposition be made of the following indictments, warrants, information's or complaints now pending against me:

CASE NUMBER00110003276823K03-000090

DATE DETAINER PLACED 03/31/03

Criminal Summons Served on or about 12/29/03

DETAINER PLACED BY: Maryland State Police

STATED CHARGES: Theft over $300 Theft by check and Uttering

Failure to take action will result in the invalidation of the indictments, information, warrants, or complaints.

I, hereby agree that this request will operate as a request for final disposition of all untried indictments, warrants, information or complaints on the basis of which detainers have been lodged against me. I also agree that this request shall constitute consent by me to the production of my body in any court where my presence may be required and a further consent to be returned to the institution in which I am now confined.

If jurisdiction over this matter is properly in another agency, court or offices, please designate the proper agency, court or offices and return this form to sender.

The Certificate of Inmate Status is attached.

The inmate must indicate below whether he has counsel or wishes the court to appoint counsel for purpose of any proceeding preliminary to trial.

Failure to list the name and address of counsel will be construed to indicate the inmates consent to the appointment of counsel by the appropriate court.

Inmate Initial A or B:

X A.My Counsel is: Irvin Hannis Catlett, Jr. Pro Se
Whose address is:

_____

B. I request the court to appoint

_____

FILED 04 NOV 23 AM 9:28

CERTIFICATE OF INMATE STATUS

MONTGOMERY COUNTY
MARYLAND CORRECTIONAL
FACILITY INSTITUTION

Name: Irvin Hannis Catlett, Jr. Number: 0208148
Offense(s) Charged in Detainer: Theft over $300
Offense(s) Charged in Criminal Summons:Theft by check uttering

In Accordance with Article 27, Section 6165, Subsection A (Interstate Detainers) of the Annotated code of Maryland, the following is submitted:

The Warden of the _____
Hereby certifies:
Term of Commitment of the above inmate_____
Time already served on sentence _____
Time remaining to be served on sentence _____

Amount of good time credited_____

Parole eligibility _____

Parole Board Hearings and results _____

WARRANT OF ARREST FOR EXTRADITION

CASE NO.

[X] GENERAL DISTRICT COURT

[ ] JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT

[ ] CIRCUIT COURT

Culpeper
LOCALITY

TO ANY AUTHORIZED OFFICER:

You are hereby commanded in the name of the Commonwealth of Virginia forthwith to arrest and bring the Accused before this Court to answer the allegation that the Accused alleged to be will in this city or county has, pursuant to the provisions of Virginia Code

[X] 19.2-98 [ ] 19.2-109

[ ] Fled justice from _____ on a charge or charges of
Name of State

_____

_____

_____

[ ] Escaped confinement in _____ after having been convicted of a crime;
Name of State

[X] Broken the terms of bail, probation, or parole in Maryland
Name of State

I, the undersigned, have found probable cause to believe that the Accused is a fugitive from justice as alleged above, based upon a certified copy of the sworn charge or charges or upon the sworn statements of the Complainant which have been reduced to writing and attached to the original copy of this warrant.

Woodard, M.C. Trooper, VSP
Complainant

07/28/2004 10:53 AM
DATE AND TIME ISSUED

[ ] Clerk [ ] Magistrate [ ] Judge

Kebbie W. Jones, Magistrate

ACCUSED

Catlett, Irvin Harris
LAST NAME, FIRST NAME, MIDDLE NAME

4521 Dresden Street
ADDRESS (CITY)

Kensington, Md 20895

COMPLETE DATA BELOW IF KNOWN

SEX	RACE	HEIGHT	WEIGHT	EYES	HAIR	DOB
M	B	6'1"	210	BRO	BLK	

SSN
235-68-9808

COMMONWEALTH OF VIRGINIA
WARRANT OF ARREST
FOR EXTRADITION

EXECUTED by arresting the Accused
Named above on this day:

7/28/04 10:57 Hours
DATE AND TIME OF ARREST

M.C. Woodard ARRESTING OFFICER
SIGNATURE, AGENCY AND ADDRESS

1216 VA State Police Cpl

FOR _____
AGENCY

Attorney for the Accused

IRVIN HANNIS CATLETT, JR.* IN THE
* COURT OF APPEALS
* OF MARYLAND

v.

* Petition Docket No.56
* Sept. Term, 2005

STATE OF MARYLAND

* (No. 2491, Sept. Term, 2004, Court of Special Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals filed in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert M. Bell

Chief Judge

DATE: June 10, 2005

IRVIN HANNIS CATLETT, JR. * IN THE

* COURT OF APPEALS

* OF MARYLAND

v.

* Sept. Term, 2005

STATE OF MARYLAND *Petition Docket No. 56

PETITION FOR WRIT OF CERTIORARI

By charging documents filed in the Circuit Court of Worcester County, Maryland, the State charged Petitioner Irvin Hannis Catlett, Jr. with seventeen counts pursuant to 27.141, uttering bad checks exceeding Five Hundred Dollars returned by Petitioner's Bank for insufficient funds and seventeen counts pursuant to 27.141(b) for passing those insufficient funds checks.

On November 1st, 2004, petitioner filed a Motion to Dismiss along with a Memorandum In Support of violation of Petitioner's Speedy Trial and numerous other Constitutional Rights in Case No. 23-K-03-000090, the Honorable Thomas Groton presiding.

On December 7th, 2004, the Circuit Court denied Petitioner's motion.

On January 5th, 2005, Petitioner appealed that dismissal to the Court of Special Appeals.

On January 12th, 2005, Petitioner ordered the transcript of the proceeding.

On February 2nd, 2005, the Court of Special Appeals on its own motion, without factual finding, dismissed Petitioner's appeal. Citing Stewart v. State, the Court issued its mandate on March 17th, 2005. Irvin Hannis Catlett, Jr. vs. State of Maryland, September Term 2004, No. 02491. Pursuant to Maryland Rule 8-303 Petitioner, in proper person, petitions this Court to issue a Writ of Certiorari to the Court of Special Appeals to review that Court's decision.

Questions Presented

1. Did the Court of Special Appeals without argument, prematurely dismiss Petitioner's appeal based solely on Stewart v. State, and are the violations of Petitioner's Constitutional rights under the Cohen, Abney Standard as quoted in United States vs. MacDonald 98 S et 1547, outweigh the State's right against review before judgment.

2. Was the Hicks Rule triggered upon the first appearance of the Petitioner in District Court?
3. Was the Petitioner's removal from the State of Maryland prior to trying Petitioner of the underlying Maryland charges and did that removal violate the Interstate Agreement of Detainers, the Fifth, Sixth, Eighth and Fourteenth Amendments.

STATEMENT OF FACTS

On December 20, 2002, Petitioner was arrested at the Montgomery County Detention Center for the aforementioned charges via a Criminal Summons.

Petitioner was held at the Montgomery Detention Center pursuant to a Virginia extradition proceeding.

On January 2, 2003, Petitioner filed a Motion to Dismiss and on January 17, 2003, Petitioner was brought via Writ from Montgomery County for a preliminary appearance in the Worcester County District Court.

During that Hearing, Petitioner emphatically entered his appearance as his attorney. Petitioner also asked for a jury trial.

On January 23, 2003, the case was forwarded to the Worcester County Circuit Court.

On January 29, 2003, the Clerk of the Circuit Court mailed a Notice of Trial to the incarcerated Petitioner's old address.

On February 19, 2003, the Circuit Court issued a bench warrant for the un-notified and in custody, Petitioner for failure to appear.

Additionally the Court ordered Petitioner recognizance be revoked and set bond at Thirty Five Thousand Dollars ($35,000.00)

On March 31st, 2003, Worcester County issued a detainer to Petitioner at The Montgomery County Detention Center.

On April 15th, 2003, the matter was called again and the Court continued the bench warrant.

On May 16th, 2003, the Petitioner forwarded a request to the Warden of Montgomery County Correctional Facility for a disposition of all outstanding charges.

On May 20th, 2003, Petitioner was extradited to Virginia to the Arlington County Detention.

On June 12th, 2003, Petitioner was transferred to Peumansend Creek Regional Jail in Bowling

Green, Virginia and remained there until January 29th, 2004.

On January 29th, 2004, Petitioner was transferred to the DOC facility at Pouhattan, Virginia, and on February 4th, 2004, Worcester County Maryland lodged a detainer against the Petitioner for failing to appear at the aforementioned February 19th, 2003 action of the Worcester County Circuit Court.

On August 8, 2004, Petitioner was extradited back to Worcester County, Maryland.

REASONS FOR GRANTING THE WRIT

Question One:

Did the Court of Special Appeals without argument prematurely dismissed Petitioner's appeal based solely on Stewart v. State and are the violations of Petitioner's Constitutional rights under the Cohen, Abney Standard as quoted in United States vs. MacDonald 98 S ct 1547 outweigh the State's right against review before judgment.

Pursuant to Maryland Rule 8-425 Petitioner filed an Emergency Motion for Injunctive Relief in this instant appeal to the Court of Special Appeals.

Upon its own initiative, without factual finding, the Court of Special Appeals dismissed the Petition's appeal without comment citing Stewart V. State.

Stewart fails to become the standard for this as it only touched on a small segment of Petitioner's appeal and had Petitioner not filed for injunctive relief to order the Circuit Court to stay proceedings in this matter the pending ruling by the Court and Special Appeals would not exist.

Before the Court of Special Appeals ruled the Circuit Court agreed to stay proceedings and later that day the Court of Special appeals dismissed Petitioner's appeal.

The record was prepared including the transcripts, by the Circuit Court.

With the record it can be easily determined that the Petitioner's Constitutional Rights had been denied on multiple occasions.

Denial of a Motion to Dismiss on grounds that a defendant is being placed in double jeopardy is immediately appeal able (Neal v. State 322 A 2d 887).

Petitioner's January 2, 2003, Motion to Dismiss was incorporated by reference into Petitioner's Speedy Trial Motion raising the Constitutional violation of the double jeopardy provision triggered by the duplicity and multiplicity of counts.

When several factual allegations are each elements of the same offense a defendant may be charged with only one count of that offense (US v. Nguyen 28 F 3d 477, 482 5th CR 1994).

Maryland Code 27-141 and 27-141(b) are based on the same elements and the duplicity of enlarging the original seventeen counts to thirty four counts is clearly double jeopardy.

The prohibition of double jeopardy contained in the Fifth Amendment to the Constitution of the United States has been applicable to State Court prosecutions under the due process clause of the Fourteenth Amendment (Cornish v. State Md 322 A 2d 880).

Failure of Judge Groton to revisit his erroneous bench warrant via petitioner's July 26, 2004, Motion For Appropriate Relief

(See Stone v. State 344 MD 97) and the detainer lodged by Worcester County for that failure to appear cause numerous cruel and unusual punishments in violation of the Eighth Amendment elaborated in Petitioner's Speedy Trial Motion. That February 2004, detainer affected Petitioner security level with the Virginia Department of Corrections that effectively lengthened his sentence, because his mandatory parole to be extended by a period of six months and resulted in nine days of isolation at the Culpepper County Virginia Jail despite Petitioner's immediately waving extradition. Additionally, Petitioner was incarcerated twenty days in Worcester County Detention Center before Petitioner's bail could be posted. That cost the Petitioner Thirty Five Hundred Dollars

Contrary to the decision of the Court below, the United States and Maryland Constitution demand that Stewart v. State be revisited.

Question Two

Was the Hicks Rule triggered upon the first appearance of the Petitioner in District Court?

ARGUMENT AND AUTHORITIES

Under Maryland Rule 4-271 when a case has been transferred from the District Court because of a demand for jury trial and an appearance of counsel is entered in the District Court that appearance was automatically entered in the Circuit Court. The date of the appearance of counsel for purposed of this rule (180 days) is the date the case was docketed in the Circuit Court.

Legally trained Petitioner emphatically entered his own appearance in District Court as his attorney and with the case being transferred to Circuit Court on February 19, 2003, the last day to try the defendant was August 19, 2003, pursuant to Rule 16-101 d.3. Compliance with that rule is mandatory and the appropriate sanction for its violation is dismissal of the charges. Goloring v. State 358 MD 490.

The petitioner was incarcerated on February 19, 2003, in Montgomery County, Maryland, and all

parties in this matter knew or should have known of that fact.

Based on the foregoing and pursuant to Rule 4-271, upon the jury demand Petitioner's appearance as his council was automatically entered in Circuit Court.

This action activated the Hicks Rule that required Petitioner's trial to begin by August 19, 2003.

Such was not the case and the inaction of the lower Court must be revisited.

Question Three

Did the petitioner's removal from the State of Maryland prior to trying petitioner on the underlying Maryland charges violate the Interstate Agreement on Detainers and his Fourteenth Amendment guarantees?

Arguments and Authorities

On October 1, 2004, Fairfax County Virginia Circuit Court Judge Keith dismissed a capital murder case against convicted sniper John Allen Muhammad due to Virginia violating Muhammad's right to a speedy trial.

See Funk v. Commonwealth of Virginia, Court of Appeals of Virginia decided July 6, 1993.

Seventeen months earlier the petitioner was extradited to Virginia from Maryland in clear violation of his rights under the Interstate Agreement on Detainers (see petitioner's argument in Speedy Trial Motion and Memorandum Thereof.).

Therefore, when Maryland extradited petitioner to Virginia, Virginia law became overriding and triggered the protection afforded by the Fourteenth Amendment.

If a convicted murderer's charges are dismissed and he is discharged from prosecution, then the equal protection of the Fourteenth Amendment demands that the Petitioner, then incarcerated in Virginia, should be afforded that same finding and this Petition for Writ of Certiorari must be granted.

Respectfully submitted,
/S/ Irvin Hannis Catlett, Jr.
Irvin Hannis Catlett, Jr.
4521 Dresden Street
Kensington, MD 20895
301-564-6422

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of April, 2005, a copy of the foregoing was mailed first class to:

The Office of the Attorney General
Criminal Appeals Division
17th Floor 200 St. Paul Place
Baltimore, Maryland 21202

Joel L. Todd, Esq.
Maryland State's Attorney
One West Market St.
Snow Hill, MD 21863

/S/ Irvin Hannis Catlett, Jr.

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

IRVIN HANNIS CATLETT, JR. Appellant	*
v.	* No. 2491
STATE OF MARYLAND	* Sept. Term, 2004

ORDER

Upon consideration of appellant's EMERGENCY MOTION FOR INJUCTIVE RELIEF, it is this 2nd day of February, 2005, by the Court of Special Appeals,

ORDERED, on the Court's own motion, in conformity with the holding of the Court of Appeals in Stewart v. State 282 Md. 557, 572 (1978), that the above captioned appeal be and is hereby DISMISSED, without prejudice to appellant's right to note an appeal from a final judgment of conviction or from an appeal able interlocutory order.

For a Panel of the Court
Consisting of Murphy, C.J.,
Salmon and Barbara, JJ.

/S/ Joseph F. Murphy, Jr.
Joseph F. Murphy, Jr.
Chief Judge

IN THE CIRCUIT COURT FOR WORCESTER COUNTY, MARYLAND

STATE OF MARYLAND
PLAINTIFF

V. CASE NO. 23K-03-000090

IRVIN HANNIS CATLETT, JR.
DEFENDANT

.....

NOTICE OF APPEAL

Please note that the Defendant, Irvin Hannis Catlett, Jr., in the above captioned action hereby notes an Appeal to the Court of Special Appeals of Maryland with regard to this Court's denial of Defendant's Motion to Dismiss for Sixth Amendment Violation of Defendant's Right To A Speedy Trial. "An immediate Appeal will lie, prior to a trial on the merits of the case, from a refusal to grant a motion asserting a denial of the Constitutional Right to a Speedy Trial." Raimondi v. State 8 Md. App. 468 id. at 472

entered in this action on December 7, 2004, at Docket Entry Line 42.

Respectfully submitted,

/S/ Irvin Hannis Catlett, Jr.
Irvin Hannis Catlett, Jr.
4521 Dresden Street
Kensington, MD 20895
301-564-6422

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of January, 2005, a copy of the foregoing Notice of Appeal was mailed first-class, postage prepaid to: State's Attorney's Office at One West Market Street, Court House Suite 208, Snow Hill, Maryland 21863-1076 and J. Joseph Curran, Jr., Attorney General at 200 St. Paul Place, Baltimore, Maryland 21202.

/S/ Irvin Hannis Catlett, Jr.

WORCESTER COUNTY
CIRCUIT COURT DOCKET ENTRY

23-K-03-000090 Date: 03/24/05 Time: 16:02

Num/Seq	Description	Filed
Entered	Party Jdg	
		Ruling

0005000 Criminal Open Court Proceedings
02/19/03 02/20/03 000 TCG

Judge Thomas C. Groton, III on the bench. David R. Dawson reporting. Defendant present without Counsel for Motions Hearing. Court advised Defendant re: right to Counsel.
Defendant waives right to Counsel.
Motions Hearing Held.
Documents filed. Court denies motion to dismiss for violation of interstate detainer act. Court denies motion to dismiss for lack of 180 day (speedy trial) rule (Hicks). Court denies motion to dismiss for violation of 6th Amendment right.

Court denies motion to dismiss. Motion for Subpoena for Tangible Evidence is not ripe for consideration.

Court advised Defendant again re: right to Counsel.

IN THE CIRCUIT COURT FOR
WORCESTER COUNTY MARYLAND

State of Maryland Plaintiff	•	
	•	Case No. 23K03-000090JC
V.	•	
Irvin Hannis Catlett, Jr. Defendant	•	

MOTION TO DISMISS FOR SIXTH AMENDMENT VIOLATION OF DEFENDANT'S RIGHT TO A SPEEDY TRIAL

COMES NOW the Defendant Irvin Hannis Catlett, Jr., in Proper Person, and moves this Honorable Court, pursuant to the Sixth and Eighth Amendments as guaranteed by the Fourteenth Amendment and the Maryland Rules of Procedure to

dismiss this Action with prejudice for the denial of his right to a Speedy Trial.

1. On December 20, 2002, Defendant was arrested for this instant case at the Montgomery County Detention Center in Rockville, Maryland. This event started the speedy trial clock. Quoting Epps v. State of Maryland 276 MD 96 Id at 102, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial..." US Const. Amendment VI. Article 21, Maryland Declaration of Rights provides "that in all criminal prosecutions every man hath a right to a speedy trial by an impartial jury." Upon the intervention of an arrest or formal charge, the Sixth Amendment speedy trial right is invoked. (See Baker v. Wingo, 407 US 514)

2. On January 2, 2003, Defendant filed a Motion to Dismiss, (A Defacto Request for Preliminary Hearing) incorporated by reference and attached within, arguing that this Action as a matter of law should be tried in the Civil Courts.
3. On January 9, 2003, Defendant was brought via Writ from Montgomery County for a Preliminary Appearance in the Worcester County District Court, at which time Defendant tried to argue Motion to Dismiss and expected at least a Gerstein Hearing (See Gerstein v. Pugh 420 US 103). In a denial of Defendant's Fourth Amendment rights, no preliminary hearing occurred and the Defendant was returned to the Montgomery County Detention Center.

4. The Defendant was incarcerated at the Montgomery County Detention Center pursuant to an extradition proceeding from November 27, 2002, until May 20, 2003.
5. On January 23, 2003 this Action was forwarded from the District Court to this Court.
6. On January 29, 2003, the Clerk of Worcester County Circuit Court mailed a Notice of Trial to the still incarcerated Defendant's old address. The Worcester County States Attorney and the Clerk's Office knew or should have known that Defendant's address was MCDC, Rockville, Maryland.
7. On February 19, 2003, this Court issued a Bench Warrant for Failing to Appear. It was the responsibility of this Court to issue a Writ to bring Incarcerated Defendant to Trial, this in denial of Defendant's Sixth Amendment Right to A Speedy Trial. Defendant was incarcerated

8. in State and failed to appear because of that incarceration and his failure to appear was not willful, voluntary nor a result of neglect or inaction on his part. See Stone v. State 144 MD 97 Id at 100. This bench warrant will trigger several Eighth Amendment violations in July 2004. That issue will be raised later in this motion.
9. On March 31, unaware of the Action depicted in Paragraph 7, Defendant was served a detainer at the Montgomery County Detention Center at the request of the Maryland State Police, Berlin, Maryland, with the approval of the State's Attorney charging theft over $300. At time of service Defendant asked for disposition of that charge.
10. Approving the Action in Paragraph 8, Worcester County State's Attorney failed to notify this Court of Defendant's address on March 31, 2003, and on April 15, 2003, this Court called this matter again

11. and continued the Bench Warrant instead of issuing a Writ to bring Defendant to Worcester County.
12. On May 16, 2003, Defendant, without the knowledge of the aforementioned judicial process depicted in Paragraphs 6, 7 and 9 via institutional mail forwarded to the Warden of Montgomery County Correctional Facility, a request for disposition of all outstanding charges.
13. On May 20, 2003, Defendant was illegally extradited to Virginia (See Tickle v. Symmens, 270 F 2d 848 (4th CIR 1950) prior to the exhausting of his State and Federal remedies, depicting June 13, 2003, mandate. This State foreclosed prematurely on Defendant's appeal rights to the Maryland Court of Appeals and the Federal District Court, 151 days after the December 20, 2002, arrest that began this action. The Defendant should have been tried within 120 days pursuant

to Intrastate Agreement on Detainers Art 1 et Seq Article IV.

14. After being transported to the Arlington County Virginia Detention Center on May 20, 2003, Defendant was again served with the detainer discussed I Paragraph 8 by the Arlington County Sheriff Department. Defendant made Sheriff aware of the IAD.
15. On June 12, 2003, Defendant was transferred to Peumansend Creek Regional Jail in Bowling Green, Virginia, and remained there until January 29, 2004. During those seven months, the Warden of that institution failed to inform Defendant of any existing detainers.
16. On February 4, 2004, Worcester County lodged a detainer attached against the Defendant with the Virginia DOC charging Failure to Appear based on the February 19, 2003, mistaken Action of this Court. This Detainer was lodged 411 days after his arrest.

17. As a direct result of the February 19, 2003, Bench Warrant for Failure to Appear, Defendant spent 9 days in isolation at the Culpeper County Virginia Jail upon being arrested as a fugitive despite immediately waiving extradition resulting in cruel and unusual punishment as that arrest would not have occurred without this Court's Action issuing the aforementioned unlawful Bench Warrant.
18. Upon returning to Maryland, Defendant was not brought to this Court upon its first convening as ordered on the face of the wrongly issued Bench Warrant, but Defendant remained incarcerated for another twenty days until posting of bail.

WHEREFORE, Defendant's Fourth, Sixth and Eighth Amendments as guaranteed by the Fourteenth Amendment have been violated. The Fourth by failure of this Court to address Defendant's January 8, 2003 Motion to Dismiss

together with the State's Attorney compromising his Gerstein Hearing. The Sixth Amendment was violated for constraining Defendant from attending his own Arraignment in this Court by failure to issue a Writ to Montgomery County to product Defendant at his Hearing and then failing to try the Defendant within 120 days violating his right to a Speedy Trial and it was cruel and unusual punishment and abuse of process in violation of the Defendant's Fourth, Sixth and Eighth Amendments for:

a) The Clerk's Office to mail the January 29, 2003 Summons/Notice of Trial to the Defendant's old address, with the knowledge that the Defendant had appeared in restraints on a Writ in Worchester District Court less than three days prior. The Circuit Court knew or should have known that the Defendant's address for service of process was the Montgomery County Detention Center.

b) Without proper service, this Court, on February 19, 2003, issued a Bench Warrant for Failure to Appear and revoked incarcerated Pro Se Defendant's personal recognizance.

c) This Court, in an effort when conducting an April 15, 2003, Arraignment and Discovery Hearing in this matter, failed to issue a Writ to command Montgomery County Maryland to bring incarcerated Pro Se Defendant to Court to conduct his defense.

d) Presently trying the Defendant more than 626 days after his arrest.

THEREFORE, based on the foregoing and Defendant's Memorandum in Support of that Motion, the Defendant prays that this Honorable Court dismiss the case with prejudice for violation of Defendant's Sixth Amendment right to a Speedy Trial.

November 1, 2004 Respectfully submitted,

/S/ Irvin Hannis Catlett, Jr.
Irvin Hannis Catlett, Jr.
4521 Dresden Street
Kensington, MD 20895
301-564-6422

CERTIFICATE OF SERVICE

A copy of the foregoing has been express mailed to the Worcester County Maryland State's Attorney on November 2, 2004.

/S/ Irvin Hannis Catlett, Jr.

Supreme Court, U.S.
FILED
NOV 25 2005
OFFICE OF THE CLERK

No. 05-318

In The

Supreme Court of the United States

IRVIN HANNIS CATLETT, JR.,
Petitioner,

v.

STATE OF MARYLAND
Respondent.

Petition for Writ of Certiorari
To The Court of Appeals
Of Maryland

PETITION FOR REHEARING

Irvin Hannis Catlett, Jr.
P.O. Box 128
Kensington, MD 20895
(301)564-6422
Pro Se

QUESTIONS PRESENTED

1. Whether Worcester County, Maryland Circuit Court Judge Thomas Groton III erred by dismissing petitioners Motion to Dismiss for violations of the Interstate Detainer Act, Speedy Trial Rights, Fifth, Sixth, Eighth and Fourteenth Amendments and do these violations trigger immediate appeal under the Cohen Abney Standard relying on the final judgement rules Collateral Order Exception outweighs the State's right against review before judgment and whether the removal of the Petitioner from the State of Maryland to Virginia prior to trying Petitioner on the underlying Maryland charges violated the Interstate Agreement of Detainer, the Sixth, Eighth and Fourteenth Amendments; and whether the Maryland Court of Special Appeals and the Maryland Court of Appeals erred by failing to reverse Judge Groton's order to dismiss Petitioner's Motion to Dismiss?

TABLE OF CONTENTS

Page

OPINION BELOW.....1

GROUNDS FOR REHEARING.....1

THE COURT SHOULD REVISIT JUDGE GROTON'S ACTIONS PRIOR TO DISMISSING PETITIONER'S MOTION TO DISMISS BASED ON CONSTITUTIONAL AND SPEEDY TRIAL VIOLATIONS, THE MOTION TO DISMISS WAS AN INDICTMENT OF HIS UNLAWFUL ACTIONS FOR WHICH HE SHOULD HAVE RECUSED HIMSELF FROM THE MOTION.

CONCLUSION.....3.

CERTIFICATION OF COUNSEL.....4.

INDEX TO APPENDICES

APPENDIX A.....5a

Decision of the Supreme Court of the United States on the Petition for Writ of Certiorari

APPENDIX B.....5b

Petitioner's July 24th, 2004 Motion for Appropriate Relief, the States answer and Judge Groton's ruling.

TABLE OF AUTHORITIES CITED

STATUES AND RULES
28 USC
MARYLAND RULE 16-813 (A) (1)

OTHER

The United States Constitution
The Sixth Amendment
The Eighth Amendment
The Fourteenth Amendment

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR REHEARING

Petitioner respectfully prays that a rehearing of the Petition for a Writ of Certiorari issue to review the Judgment below.

OPINIONS BELOW

The decision of the Supreme Court of the United States appears at Appendix A to the Petition.

GROUNDS FOR REHEARING

The Petitioner prays the Court to rehear this case on the merits of intervening circumstances of a substantial effect not previously presented. The circumstances in question involves the failure of Judge Groton to recuse himself from, Petitioner's Motion to Dismiss (The subject of the original petition for Writ of Certiorari) in the Worcester County Maryland Circuit Court.

Petitioner's July 15th, 2005 Motion for Appropriate Relief (Appendix B) set forth numerous Constitutional abuses by Judge Groton and the State.

At the very least, the Judge should have recused himself from the December 7th, Motion to Dismiss, withdrawn the bench warrant and reduced the bail to its original personal recognizance status.

Maryland Rule 16-813, Canon 3 states that in the performance of judicial duties, the following standards apply:

(A) adjudicative responsibilities (1) A judge should be faithful to the law and maintain professional competence in it.

Judge Groton denied Petitioner's Motion for Appropriate Relief when the Motion and Facts regarding same spoke for itself.

Due to a mistake by the clerk of the Circuit Court, Judge Groton issued a bench warrant for failure to appear and raised Petitioner's bail to $35,000 from personal recognizance.

When confronted with the mistake in the aforementioned Motion for Appropriate Relief, the judge failed to correct himself and caused a multitude of Sixth and Eighth amendments violations on Petitioner, laying the groundwork for a 28 USC 1983 Action.

The Sixth Amendment demands a fair and speedy trial by an impartial jury certainly the Petitioner should have been afforded the same impartiality by the Judge.

The Fourteenth Amendment guarantees due process and equal protection under the law but where is the due process when Judge Groton failed to correct the glaring mistakes.

Based on the foregoing, the Petitioner could not have prevailed with his Motion to Dismiss, due to the bias Judge, Dismissal would have demanded censure of the Judge, and in effect became a whitewashing of same.

CONCLUSION

The court should grant this petition and have an evidentiary hearing reversing the bias acts of Judge Groton.

Respectfully Submitted

Irvin Hannis Catlett, Jr.
In Proper Person
P.O. Box 128
Kensington, MD 20895
(301) 564-6422

CERTIFICATION OF COUNSEL

I, Irvin Hannis Catlett Jr., here known as the Petitioner, hereby declare that this Petition for Rehearing before the Supreme Court of the United States is presented in good faith and not for delay.

Signed _____

Dated 11/25/05

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

October 31, 2005

Mr. Irvin Hannis Catlett, Jr.
P.O. Box 128
Kensington, MD 20895

Re: Irvin Hannis Catlett, Jr.
v. Maryland
No. 05-318

Dear Mr. Catlett:

The Court today entered the following order in the above-entitled case:
The petition for a writ of certiorari is denied.

Sincerely,
S/ William K. Suter
Willaim K. Suter, Clerk

APPENDIX A

IN CIRCUIT COURT FOR WORCESTER COUNTY, MARYLAND

STATE OF MARYLAND *
PLAINTIFF *
v. *Case No. 23-K-03- 00090JC
IRVIN HANNIS CATLETT, JR. *
DEFENDANT

MOTION FOR APPROPRIATE RELIEF

COMES NOW, the Defendant Irvin Hannis Catlett, Jr., in Proper Person, and moves this Honorable Court, pursuant to the Fourth, Sixth, Eighth and Fourteenth Amendments and the Maryland Rules of Procedure, for Appropriate Relief, in the above-captioned matter, for the reasons as follows:

1. That on or about June 28, 2004, the Defendant, upon request to the Clerk of this Court, received from that Clerk, by mail, the case history of this action.
2. On that date, Defendant became aware of these certain facts that:

(a) On January 23, 2003, this Action was forwarded to this Court from District Court being Case Number 006100043154.

APPENDIX B

5b

(b) That on January 29, 2003, this Court mailed a Summons/Notice of Trial to Defendant's former address in Pontiac, Maryland. Be it remembered that this Court issued a Writ to Warden of the Montgomery County Detention Center for the Defendant's appearance on the precedent District Court appearance. Defendant was incarcerated in the Montgomery County Maryland pursuant to an extradition proceeding from November 27, 2002, until May 20, 2003. (See attached Exhibit depicting same).

(c) That on February 19, 2003, this Court revoked Defendant's Personal Recognizance and issued a Bench Warrant for Failure to Appear setting a Bond of Thirty-Five Thousand Dollars, based solely on that Failure to Appear. The States Attorney knew or should have known that the Defendant was incarcerated and had a duty to this Court to inform this Court of that fact.

(d) Upon the belief of the Defendant, the State's Attorney again failed in its duty to inform this Court that Defendant was still incarcerated in Montgomery County, Maryland on April 15, 2003, when this matter came before this Court, and finding Defendant not present in this Court continued the Bench Warrant.

(e) On March 12 and 15, 2003, the State issued two Writs of Duces Tecum for Personal and Production of Document. Those appearance and productions were docketed for the April 15 Hearing that failure to bring the incarcerated Defendant to that Hearing compromised his Gerstein Hearing (See Gerstein V. Pugh 0 US 103)

3. On May 20, 2003, Defendant was illegally extradited to Virginia (see Tickle V. Symmens, 270 F2d 848, (4th Cir 19500

The June 13, 2003 Mandate from the Maryland Court of Special Appeals denying Defendant's Leave to Appeal his extradition was issued 23 days after Defendant was extradited. 38 days prior to deadline to file Petition for Writ of Certiorari to the Maryland Court of Appeals pursuant to Maryland Rule 8-302 in violation of the Annotated Code of Maryland. Criminal Procedure Sections 9-110-111. The Defendant's Due Process was foreclosed upon by Demanding and Asylum Jurisdictions failure to allow his Maryland Court of Appeals and Federal Court challenges.

WHEREFORE, the Supreme Court in Faretta V. California, 422 US 806, recognized a Defendant's Sixth Amendment right to conduct his defense. Defendant, during Arraignment in District Court Number 00610043154, precedent to this Action, informed that Court of his choice of self representation. Defendant's Fourth, Sixth and Eighth Amendments as guaranteed by the Fourteenth Amendment have been violated. The Fourth by failure of this Court to address Defendant's January 8, 2003, Motion to Dismiss together with the State's Attorney compromising his Gerstein Hearing. The Sixth Amendment was violated for constraining Defendant from attending his own Arraignment in this Court by failure to issue a Writ to Montgomery County to produce Defendant at his hearing. Additionally, Defendant's Eighth Amendment was violated.